

## **REMARKS/ARGUMENTS**

This is in response to the July 28, 2004 Office Action and has been revised in response to the October 25, 2004 Office Communication. Claims 1-49 and 73 have been cancelled. Accordingly, claims 50-72, 75 and 75 are pending and have been allowed in the application.

### **1 Amendment of Title of Invention**

In the specification, the title has been amended to reflect the claims currently pending in the application.

### **2 Rejection Under the Judicially Created Doctrine of Obviousness-Type Double Patenting**

The obviousness-type double patenting rejection in respect of claims 50-61 and 68<sup>1</sup> has been obviated by the Terminal Disclaimer submitted herewith (the "Terminal Disclaimer"). The Terminal Disclaimer disclaims the terminal portion of the term of any patent granted on this application that extends beyond the term of co-pending U.S. Patent Application No. 09/873,899, published February 6, 2003 as U.S. Publication No. 2003/0027748.

### **3 Fees Payable**

Submitted herewith is a check payable to the Commissioner of Patents and Trademarks in the amount of \$110.00 for filing the Terminal Disclaimer. The U.S. Patent and Trademark Office is hereby authorized to charge any additional amount necessary to the entry of this amendment, and to credit any excess payment, to Deposit Account No. 13-4365 of Moore & Van Allen PLLC.

### **4 Indefiniteness of Claim 73**

The examiner rejected claim 73 under 35 USC § 112, second paragraph, as being indefinite. Although the applicants to not agree with this conclusion, in order to expedite the allowance of the application, the applicants have canceled claim 73, while maintaining the right to pursue the subject matter of the claim in a separate application.

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<sup>1</sup> Claims 50-61 and 68 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16, 18-28, 68-71, 79, 81-92, 97-100 and 103-122 of co-pending U.S. Patent Application No. 09/873,899, published February 6, 2003 as U.S. Publication No. 2003/0027748.

## 5 Conclusions

The pending claims are now in condition for allowance. In the event that any issues remain incident to formal allowance of the application, the Examiner is requested to contact the undersigned attorney at (919) 286-8107.

Respectfully submitted,

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By:



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